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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,467	11/20/2003	Peter B. Rim	H0006488-4820	1047

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EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 02/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/718,467

Applicant(s)

RIM ET AL.

Examiner

Andrew T. Piziali

Art Unit

1771

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-6, 8-26 and 28-34.
Claim(s) withdrawn from consideration: 7 and 27.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because:

It is noted that the applicant has abandoned the nonanalogous arguments presented in the previous response.

Applicant's new arguments are also not persuasive. The applicant asserts that Weidner is not concerned with the chemical modification of contaminants and therefore there is no motivation to use the fibers disclosed by Rohrbach. The examiner respectfully disagrees. Wiedner discloses that the object of the invention is to provide an article of clothing which may be used in the chemical field and which effectively prevents substances, such as micro-organisms, from contaminating the wearer (column 1, lines 43-55). Wiedner also discloses that the central layer may comprise material that absorbs the substance (column 3, lines 28-37). Rohrbach discloses that it is known in the chemical microorganism absorbent fiber art to use fibers having semi-opened micro-cavities that have been impregnated with at least one chemical decontamination reagent in an amount sufficient to chemically modify, neutralize and/or decontaminate chemical contaminants (see entire document including (column 1, line 53 through column 2, line 34, column 3, lines 36-64, and Figures 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the fibers taught by Rohrbach within the central textile fabric, because the fibers would protect the wearer from chemical contaminants and because it is within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

The applicant admits that Wiedner discloses a hem, but asserts that the hem is not a sealed hem and that the hem does not prevent the passing of contaminants through the article. The examiner respectfully disagrees. The current specification clearly defines a "sealed hem" as a hem that prevents a decontamination reagent from passing through the hem (article) (see the abstract, page 3, lines 22-24, page 4, lines 16-17, page 5, lines 6-7, page 11, lines 18-20, and page 13, lines 2-3). Wiedner clearly discloses that the seams may be displaced relative to one another to ensure that a path is not offered to liquid or bacteria through the stitches (column 2, lines 62-67). The applicant asserts that only heat sealing or welding read on the claimed hem, but the examiner respectfully disagrees. The claims do not specifically mention heat sealing or welding.

gjb 1/25/06
ANDREW T. PIZALI
PATENT EXAMINER


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